

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

V. : CIVIL ACTION
:
: NO.

MEMORANDUM AND ORDER

PETER B. SCUDERI
UNITED STATES MAGISTRATE JUDGE

By Order dated, the District Attorney for County was directed to file a specific and detailed answer pursuant to Rule 5 of the Rules Governing Section 2254 Cases in the United States District court. Rule 5 provides:

The answer shall respond to the allegations of the petition. In addition it shall state whether the petitioner has exhausted his state court remedies including any post-conviction remedies available to him under the statutes or procedural rules of the state and including also his right of appeal both from the judgement of conviction and from any adverse judgment or order in the post-conviction proceeding. The answer shall indicate what transcripts (of pretrial, trial, sentencing, and post-conviction proceedings) are available, when they can be furnished, and also what proceedings have been recorded and not transcribed. There shall be attached to the answer such portions of the transcripts as the answering party deems relevant. The court on its own motion or upon request of the petitioner may order that further portions of the existing transcripts be furnished or that certain portions of the non-transcribed proceedings be transcribed and furnished. If a transcript is neither available nor procurable, a narrative summary of the evidence may be submitted. If the petitioner appealed from the judgment of conviction or from an adverse judgment or order in a post-conviction proceeding, a copy of the petitioner's brief on appeal and of the opinion of the appellate court, if any, shall also be filed by the respondent with the answer.

After the court granted a request for an extension of time, the District Attorney for

County answered the petition for habeas corpus on . In the answer, the District Attorney merely admits or denies the assertions made by the petitioner, without addressing relevant legal issues. This is extremely troubling considering the fact that Petitioner presents separate claims for habeas relief, which were addressed the District Attorney in a total of .

The District Attorney will be ordered to comply with Rule 5. When filing his answer, the District Attorney shall also file a memorandum of law addressing the relevant legal issues presented by the petition. Further, the district Attorney will be ordered to provide the copies of all portions of the record in , that are in his possession. An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ISAIAH GIVENS	:	CIVIL ACTION
V.	:	
KENNETH KYLER, ET AL.	:	NO. 2:02-CV-02655-TJS

ORDER

_____AND NOW, this 12TH day of NOVEMBER, 2002, IT IS HEREBY
ORDERED THAT:

1. The District Attorney of PHILADELPHIA County shall file a
Supplemental Response specifically addressing the merits of the claims presented by the petition
in this case no later than DECEMBER 12, 2002 (12/12/02).

BY THE COURT:

PETER B. SCUDERI
UNITED STATES MAGISTRATE JUDGE